

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2007-1779-PST-E TCEQ ID: RN101779163 CASE NO.: 34891
RESPONDENT NAME: RONNIE VANCE

Page 1 of 2

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	

CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: 401 West McHarg Street, Stamford, Jones County

TYPE OF OPERATION: property with three inactive underground storage tanks

SMALL BUSINESS: ☐ Yes ☒ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

COMMENTS RECEIVED: The *Texas Register* comment period expired __, 2009. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney: Mr. Rudy Calderon, Litigation Division, MC 175, (512) 239-0205
Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019

TCEQ Enforcement Coordinator: Mr. Wallace Myers, AIR Enforcement Section, MC 128, (512) 239-6580

TCEQ Regional Contact: Mr. Mike Taylor, Abilene Regional Office, MC R-3, (325) 698-6125

Respondent: Mr. Ronnie Vance, P.O. Box 1095, Stamford, Texas 79553

Respondent's Attorney: Mr. Raymond Hollabaugh, PO Box 1176, Stamford, Texas 79553

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: September 4, 2007</p> <p>Date of NOE Relating to this Case: October 4, 2007</p> <p>Background Facts: The case was referred to the Litigation Division on May 6, 2008. The EDPRP was filed on June 10, 2008. The Respondent filed an answer and the case was referred to SOAH on October 29, 2008. An EDFARP was filed on February 19, 2009. The preliminary hearing was waived and the parties engaged in discovery. Settlement was achieved and a signed Agreed Order was received on August 3, 2009.</p> <p>Current Compliance Status: Not yet in compliance. The Respondent does not have a delivery certificate and owes \$1,050 in past-due fees.</p> <p>PST:</p> <ol style="list-style-type: none">Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, three USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements [30 TEX. ADMIN. CODE § 334.47(a)(2)].Failed to pay outstanding UST fees and associated late fees for TCEQ Financial Account No. 0002823U for fiscal years 2000 through 2007. [TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 334.22 (a)].	<p>Initial Calculated Penalty: \$5,250</p> <p>Total Assessed: \$3,600</p> <p>Total Deferred: \$1,650 <input type="checkbox"/> Expedited Order <input checked="" type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$100/\$3,500</p> <p>The Respondent paid \$100 of the administrative penalty. The remaining amount of \$3,500 shall be payable in 35 monthly payments of \$100 each.</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none">Within 30 days, permanently remove the UST system from service.Within 45 days:<ol style="list-style-type: none">Submit payment for all outstanding fees, including any associated penalties and interest; andSubmit written certification demonstrating compliance with these Ordering Provisions.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision September 19, 2007

TCEQ

DATES	Assigned	8-Oct-2007	Screening	15-Oct-2007	EPA Due	
	PCW	12-Jan-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	Ronnie Vance
Reg. Ent. Ref. No.	RN101779163
Facility/Site Region	3-Abilene
Major/Minor Source	Minor

CASE INFORMATION	
Enf./Case ID No.	34891
Docket No.	2007-1779-PST-E
Media Program(s)	Petroleum Storage Tank
Multi-Media	
Admin. Penalty \$ Limit Minimum	\$0
Maximum	\$10,000
No. of Violations	2
Order Type	1660
Enf. Coordinator	Wallace Myers
EC's Team	Enforcement Team 6

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$5,000
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ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	5% Enhancement	Subtotals 2, 3, & 7	\$250
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Notes Enhancement for one NOV with same or similar violations.

Culpability	No	0% Enhancement	Subtotal 4	\$0
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Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply	0% Reduction	Subtotal 5	\$0
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	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria.

Total EB Amounts	\$2,372	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$5,000	<i>*Capped at the Total EB \$ Amount</i>		

SUM OF SUBTOTALS 1-7	Final Subtotal	\$5,250
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OTHER FACTORS AS JUSTICE MAY REQUIRE	0%	Adjustment	\$0
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Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount	\$5,250
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STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$5,250
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DEFERRAL	0% Reduction	Adjustment	\$0
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Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral not offered for non-expedited settlement.

PAYABLE PENALTY	\$5,250
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Screening Date 15-Oct-2007

Docket No. 2007-1779-PST-E

PCW

Respondent Ronnie Vance

Policy Revision 2 (September 2002)

Case ID No. 34891

PCW Revision September 19, 2007

Reg. Ent. Reference No. RN101779163

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Wallace Myers

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	1	5%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 5%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

Enhancement for one NOV with same or similar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 5%

Screening Date 15-Oct-2007		Docket No. 2007-1779-PST-E		PCW	
Respondent Ronnie Vance		<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 34891		<i>PCW Revision September 19, 2007</i>			
Reg. Ent. Reference No. RN101779163					
Media [Statute] Petroleum Storage Tank					
Enf. Coordinator Wallace Myers					
Violation Number		<div style="border: 1px solid black; padding: 2px; text-align: center;">1</div>			
Rule Cite(s)		<div style="border: 1px solid black; padding: 5px; text-align: center;">30 Tex. Admin. Code § 334.47(a)(2)</div>			
Violation Description		<div style="border: 1px solid black; padding: 5px;">Failed to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, a UST system for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.</div>			
Base Penalty				<div style="border: 1px solid black; padding: 2px; text-align: center;">\$10,000</div>	
>> Environmental, Property and Human Health Matrix					
OR	Harm				
	Release	Major	Moderate	Minor	
	Actual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	
	Potential	x	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Percent <div style="border: 1px solid black; padding: 2px; text-align: center;">25%</div>
>> Programmatic Matrix					
	Falsification	Major	Moderate	Minor	
	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Percent <div style="border: 1px solid black; padding: 2px; text-align: center;">0%</div>
Matrix Notes		<div style="border: 1px solid black; padding: 5px;">Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.</div>			
Adjustment				<div style="border: 1px solid black; padding: 2px; text-align: center;">\$7,500</div>	
				<div style="border: 1px solid black; padding: 2px; text-align: center;">\$2,500</div>	
Violation Events					
Number of Violation Events		<div style="border: 1px solid black; padding: 2px; text-align: center;">2</div>		Number of violation days	
		<div style="border: 1px solid black; padding: 2px; text-align: center;">41</div>			
<small>mark only one with an x</small>	daily	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>			
	monthly	x			
	quarterly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>			
	semiannual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>			
	annual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>			
	single event	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>			
Violation Base Penalty				<div style="border: 1px solid black; padding: 2px; text-align: center;">\$5,000</div>	
<div style="border: 1px solid black; padding: 5px; text-align: center;">Two monthly events are recommended based on documentation of the violation during the September 4, 2007 record review to the October 15, 2007 screening date.</div>					
Economic Benefit (EB) for this violation			Statutory Limit Test		
Estimated EB Amount		<div style="border: 1px solid black; padding: 2px; text-align: center;">\$2,372</div>		Violation Final Penalty Total	
				<div style="border: 1px solid black; padding: 2px; text-align: center;">\$5,250</div>	
This violation Final Assessed Penalty (adjusted for limits)				<div style="border: 1px solid black; padding: 2px; text-align: center;">\$5,250</div>	

Economic Benefit Worksheet

Respondent: Ronnie Vance

Case ID No. 34891

Reg. Ent. Reference No. RN101779163

Media: Petroleum Storage Tank

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$5,000	22-Dec-1998	15-Jun-2008	9.5	\$2,372	n/a	\$2,372

Notes for DELAYED costs

Estimated minimum cost to permanently remove three USTs from service. The date required is the date when the Respondent was required to upgrade the UST system and the final date is estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$2,372

Screening Date 15-Oct-2007		Docket No. 2007-1779-PST-E	PCW	
Respondent Ronnie Vance		<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 34891		<i>PCW Revision September 19, 2007</i>		
Reg. Ent. Reference No. RN101779163				
Media [Statute] Petroleum Storage Tank				
Enf. Coordinator Wallace Myers				
Violation Number	<input type="text" value="2"/>			
Rule Cite(s)	<input type="text" value="30 Tex. Admin. Code § 334.22(a) and Tex. Water Code § 5.702"/>			
Violation Description	<input type="text" value="Failed to pay outstanding UST fees and associated late fees for TCEQ Financial Account No. 0002823U for fiscal years 2000 through 2007."/>			
Base Penalty			<input type="text" value="\$10,000"/>	
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Major	Moderate	Minor	
	Release	<input type="text"/>	<input type="text"/>	<input type="text"/>
	Actual	<input type="text"/>	<input type="text"/>	
	Potential	<input type="text"/>	<input type="text"/>	
Percent			<input type="text" value="0%"/>	
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Percent			<input type="text" value="0%"/>	
	Matrix Notes			
	<input type="text"/>			
Adjustment			<input type="text" value="\$10,000"/>	
			<input type="text" value="\$0"/>	
Violation Events				
Number of Violation Events		<input type="text"/>	Number of violation days	
		<input type="text"/>		
<small>mark only one with an x</small>	daily	<input type="text"/>	Violation Base Penalty <input type="text" value="\$0"/>	
	monthly	<input type="text"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
single event	<input type="text"/>			
No additional administrative penalty was calculated for this violation as penalties and interest will be assessed on the next fee billing.				
Economic Benefit (EB) for this violation			Statutory Limit Test	
Estimated EB Amount		<input type="text" value="\$0"/>	Violation Final Penalty Total	<input type="text" value="\$0"/>
This violation Final Assessed Penalty (adjusted for limits)				<input type="text" value="\$0"/>

Economic Benefit Worksheet

Respondent: Ronnie Vance

Case ID No.: 34891

Reg. Ent. Reference No.: RN101779163

Media: Petroleum Storage Tank

Violation No.: 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

n/a

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance \$0

TOTAL \$0

Compliance History

Customer/Respondent/Owner-Operator:	CN600962278	Vance, Ronnie	Classification: AVERAGE Rating: 2.00
Regulated Entity:	RN101779163	VANCES WESTSIDE 66 STATION	Classification: AVERAGE Site Rating: 2.0
ID Number(s):	PETROLEUM STORAGE TANK	REGISTRATION	4367
Location:	401 W MCHARG ST, STAMFORD, TX, 79553		Rating Date: 9/1/2007 Repeat Violator: NO
TCEQ Region:	REGION 03 - ABILENE		
Date Compliance History Prepared:	October 19, 2007		
Agency Decision Requiring Compliance History:	Enforcement		
Compliance Period:	October 19, 2002 to October 19, 2007		

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Wallace Myers Phone: 512-239-6580

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 11/20/2006 (518074)
- 2 04/26/2007 (542098)
- 3 10/02/2007 (574242)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 11/27/2006 (518074)

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.49[G]

Description: Failure to provide cathodic protection for the underground storage tank system.

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 334, SubChapter C 334.47(a)(2)

Description: Failure to upgrade the underground storage tank system to meet all technical standards or failure to permanently remove USTs according to 334.55.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
RONNIE VANCE;
RN101779163

§
§
§
§
§
§

BEFORE THE

TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2007-1779-PST-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Ronnie Vance ("Mr. Vance") under the authority of TEX. WATER CODE chs. 5, 7, and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Mr. Vance, represented by Raymond Hollabaugh of the law firm of Raymond Hollabaugh, appear before the Commission and together stipulate that:

1. Mr. Vance owns property with three inactive underground storage tanks located at 401 West McHarg Street, Stamford, Jones County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Mr. Vance agree that the Commission has jurisdiction to enter this Agreed Order, and that Mr. Vance is subject to the Commission's jurisdiction.
4. Mr. Vance received notice of the violations alleged in Section II ("Allegations") on or about October 9, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Mr. Vance of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of five thousand two hundred fifty dollars (\$5,250.00) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Financial Assurance Section of the Commission's Financial Administration Division reviewed the financial documentation submitted by Mr. Vance and determined that Mr. Vance is unable to pay part of the administrative penalty. Therefore, one thousand six hundred fifty dollars (\$1,650.00) of the penalty is deferred contingent upon Mr. Vance's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Mr. Vance fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require Mr. Vance to pay all or part of the deferred penalty.

Mr. Vance paid one hundred ten dollars (\$100.00) of the undeferred administrative penalty. The remaining amount of three thousand five hundred dollars (\$3,500.00) shall be payable in 35 of payments monthly payments of one hundred dollars (\$100.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Mr. Vance fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the acceleration of any remaining balance constitutes the failure by Mr. Vance to timely and satisfactorily comply with all the terms of this Agreed Order and the Executive Director may demand payment of any deferred penalty amount.

7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Mr. Vance agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Mr. Vance has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

During an inspection conducted on September 4, 2007, a TCEQ Abilene Regional Office investigator documented that Mr. Vance violated:

- a. 30 TEX. ADMIN. CODE § 334.47(a)(2) by failing to permanently remove from service, no later than 60 days after the prescribed upgrade implementation date, three USTs for which any applicable component of the system is not brought into timely compliance with the upgrade requirements.
- b. TEX. WATER CODE § 5.702 and 30 TEX. ADMIN. CODE § 334.22(a) by failing to pay outstanding UST fees and associated late fees for TCEQ Financial Account No. 0002823U for fiscal years 2000 through 2007.

III. DENIALS

Mr. Vance generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Mr. Vance pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Mr. Vance's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Ronnie Vance, Docket No. 2007-1779-PST-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Mr. Vance shall undertake the following technical requirements:

- a. Within 30 days after the effective date of this Agreed Order, Mr. Vance shall permanently remove the UST system from service, in accordance with 30 TEX. ADMIN. CODE § 334.55.
- b. Within 45 days after the effective date of this Agreed Order, Mr. Vance shall submit payment for all outstanding fees, including any associated penalties and interest and with the notation, "Ronnie Vance, TCEQ Financial Administration Account No. 0002823U", to:

Financial Administration Division, Revenue Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

- c. Within 45 days after the effective date of this Agreed Order, Mr. Vance shall submit written certification and detailed supporting documentation, including photographs, receipts, and other records, to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Mr. Vance shall submit the written certification and copies of documentation necessary to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

and

Mike Taylor, Waste Section Manager
Texas Commission on Environmental Quality
Abilene Regional Office
1977 Industrial Blvd.
Abilene, Texas 79602-7833

3. The provisions of this Agreed Order shall apply to and be binding upon Mr. Vance. Mr. Vance is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
4. If Mr. Vance fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Mr. Vance's failure to comply is not a violation of this Agreed Order. Mr. Vance shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Mr. Vance shall notify the Executive Director within seven days after Mr. Vance becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Mr. Vance shall be made in writing to the Executive Director. Extensions are not effective until Mr. Vance receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Mr. Vance in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be

transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.

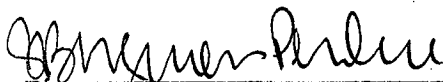
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Mr. Vance, or three days after the date on which the Commission mails notice of the Order to Mr. Vance, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Ronnie Vance
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

9/2/2009

Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on Mr. Vance's compliance history;
- Greater scrutiny of any permit applications submitted by Mr. Vance;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against Mr. Vance;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Mr. Vance; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

8/3/09

Date

Ronnie Vance

Name (Printed or typed)

Title